

DETAILED ACTION

Response to Amendment

After being informed of the agreement to vacate the previous action in the interview summary mailed 11/25/2011, the examiner contacted Mr. Han Gim to discuss the details of the conversations between Mr. William Smith and the Office. Mr. Gim informed the examiner that he would discuss the issue with Mr. Smith and get back to the examiner. The examiner received the attached interview summary from Mr. Gim on 11/28/2011. Based on the direction given to the examiner in the USPTO interview summary mailed 11/25/2011 and with consideration of the items mentioned in the interview summary received from Mr. Gim on 11/28/2011, the previous office action is vacated and the following new ground of rejection is provided necessitated by the amendment received 1/24/2011.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,7-10,12,13,20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the background of US PG PUB 20020183059 para 0001-0009, which includes a summary of the inventions of previous Noreen patents 5,303,393, 5,455,823 and 5,689,245 herein referred to as Noreen (bg), in view of

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improvement over the background as described in the remainder of the disclosure of PG PUB 20020183059, herein referred to as Noreen, in view of Christensen et al (US 6,957,041) and further in view of Henson (US 7035815).

In regards to claim 1, Noreen (bg) discloses a system for purchasing goods and services linked with broadcast media, comprising:

one or more broadcast radio receivers configured to receive in-band broadcast radio media and determine , based on the media, information relating to goods and services that can be purchased by persons receiving the media, each receiver further configured to collect data from monitored channels,

selectively receive a purchase request,

record the purchase data for goods and services relating to the broadcast media, determine whether explicit identification data is present in the broadcast radio media, and

wherein the receivers are further configured to effectuate determination of the information relating to goods and services when the broadcast radio media does not include explicit identification data by sending the collected data to a server (Noreen(bg) 00001-0009); and

Noreen (bg) teaches providing information such as a subscriber ID and product information that is used at the server to complete a transaction based on saved information such as a credit card and other purchase authorization information, but does

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not specifically use the term “verify purchase data”, Noreen teaches the use of a verification step in para 0055 of Noreen. It would have been obvious to one of ordinary skill in the art at the time of the invention to add verify the purchase data as is taught by Noreen into the system of Noreen(bg), because verifying the purchase information saved at the network operation center will assure that the correct person is being charged for the correct product and reduce the likelihood of making incorrect charges which would aggravate the consumer and possibly cause the consumer to stop using the system thus reducing sales revenue.

one or more servers configured to selectively receive and verify purchase data sent from the one or more receivers wherein:

when the purchase data includes explicit identification data upon verification at the one or more servers, the purchase is accomplishable without further interaction from the person (Noreen (bg), para 0004 or Noreen, para 0079), and

Applicant may argue that the only part of the purchase data verified is the purchase data identifying the song in Noreen, and does not include verifying the user information against the credit card or subscription data saved at the network operation center. Christensen in the same field of endeavor teaches verifying customer provided data at an authorization center (Christensen, col 5, lines 10-35). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in the combination of Noreen(bg) and Noreen, verifying the customer information as is taught by Christensen, because this will assure that the correct person is being charged

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and that sufficient funds are in the user account to pay for the sale before the product is delivered to the customer.

the one or more servers are further configured to use the sent collected data to identify the requested goods or services when the media does not include explicit identification data identifying the goods and services, whereupon the purchase is effectuated without further interaction from the person (Noreen (bg) para 0004 and Noreen, para 0079).

The combination of Noreen(bg), Noreen and Christensen teach generating an indication when the requested goods or services are available (Noreen para 0071, Christensen, col 10, lines 25-40), but does not specifically mention that the indication is given when the goods or services are not available. The examiner notes that it is common practice to notify a customer when a product/service is not available / sold out such as in the Henson patent (col 9, lines 44-59). Therefore it would have been obvious to try, by one of ordinary skill in the art at the time of the invention was made to also provide an indication when the product is not available, since there are a finite number of identified, predictable potential solutions (i.e. notify the user that a product/service is available or the null set of when the product/service is not available) to a recognized need (providing information to the user so that when they press the purchase button they know what the result will be) and one of ordinary skill in the art could have pursued the known potential solution with reasonable expectation of success (the benefits of providing assurance to the user of the resultant effect from pressing the buy button resulting in the desired outcome are well understood).

In an alternative, the combination of Noreen(bg), Noreen and Christensen teach providing a notification to the user when the product/service is available, but does not teach notification of a null set. However, it has been held that mere reversal, in this case providing the null indication that the service is not available, was held to be an obvious variant. See MPEP 2144 VI A, reversal of parts In re Gazda, 219 F.2d 449, 104 USPQ 400 (CCPA 1955).

In regards to claim 2, the combination of Noreen(bg), Noreen, Christensen, and Henson teach wherein each broadcast radio receiver is in communication with a server (Noreen(bg), para 0004 or Noreen, FIG 12-16).

In regards to claim 7, the combination of Noreen(bg), Noreen, Christensen, and Henson teach wherein each broadcast radio receiver is a single device (Noreen, FIG 13, item 320).

In regards to claim 8, the combination of Noreen(bg), Noreen, Christensen, and Henson teach wherein each broadcast radio receiver is comprised of at least two devices, to include a broadcast media receiver and a purchase selection device (Noreen(bg), para 0004 and Noreen para 0064,0069,0077, item 390).

In regards to claim 9, the combination of Noreen(bg), Noreen, Christensen, and Henson teach a broadcast radio receiver for purchasing goods and services linked with broadcast media,

the broadcast radio receiver configured to receive in-band broadcast media and determine, based on the media, information relating to goods and services that can be purchased by persons receiving the media, the broadcast radio receiver further configured to collect data from monitored channels, selectively receive a purchase request,

record the purchase data for goods and services that linked with the broadcast media;

determine whether identification data is present in the broadcast radio media,
generate an indication when the requested goods or services are not available for
purchase.

effectuate the determination of the purchase data relating to the goods and
services when the broadcast radio media does not include explicit identification
information by sending the collected data to a server, and

selectively transmit the purchase data or collected data to another computer device,

wherein when the purchase data includes explicit identification information upon verification, the purchase is accomplishable without further interaction from the person;
and

wherein the broadcast radio receiver is configured to receive receiving a direct download of said purchased goods and services upon verification of the purchase (see response to claim 1).

In regards to claim 10, the combination of Noreen(bg), Noreen, Christensen, and Henson teach a purchase selection indicator (Noreen(bg), para 0004 or Noreen, FIG 11, item 328).

In regards to claim 12, the combination of Noreen(bg), Noreen, Christensen, and Henson teach a method for facilitating the purchasing purchase of goods and services linked with broadcast media, comprising:

receiving at a broadcast radio receiver in-band broadcast media;

receiving at the broadcast radio receiver a purchase request;

collecting data from monitored channels;

determining whether explicit identification data is present in the broadcast media and generating an indication when the requested goods or services are not available for purchase;

effectuating the determination of the information relating to the requested goods and services when the broadcast media does not explicit identification information by sending the collected data to at least one server;

selectively recording purchase data at the broadcast radio receiver for a good or service associated with the purchase request;

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sending, by the broadcast radio receiver, the purchase data or the collected data to the at least one server;

receiving the purchase data or collected data at the at least one server;

determining the information relating to the requested goods and services based on the collected data when the purchase data is not received; and

verifying the purchase data;

if not purchase data is present, determining information relating to the requested goods and services from the received collected data from the broadcast radio receiver at the least one server,

wherein the purchase is accomplishable without further interaction from the receiver (see response to claim 1).

In regards to claim 13, the combination of Noreen(bg), Noreen, Christensen, and Henson teach the step of sending the purchase data is sending the purchase data to a plurality of servers; and

further comprising the step of storing the purchase data of one of the servers; and wherein the step of verifying the purchase data occurs at a different server (Christensen, FIG 1C, item 152).

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In regards to claim 20, the combination of Noreen(bg), Noreen, Christensen, and Henson teach wherein the at least two devices are separate(see response to claim 8).

In regards to claim 21, the combination of Noreen(bg), Noreen, Christensen, and Henson teach wherein the purchased goods and services are at least one song (Noreen, FIG 6).

In regards to claim 22, the combination of Noreen(bg), Noreen, Christensen, and Henson teach wherein upon verification of the purchase, at least one song being directly downloaded to the broadcast radio receiver (Noreen, para 0055).

Claims 3, 11 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over the background of US PG PUB 20020183059 para 0001-0009, which includes a summary or the inventions of previous Noreen patents 5,303,393, 5,455,823 and 5,689,245 herein referred to as Noreen (bg), in view of improvement over the background.as described in the remainder of the disclosure of PG PUB 20020183059, herein referred to as Noreen, in view of Christensen et al (US 6,957,041) in view of Henson (US 7035815) and further in view of Moskowitz et al.

In regards to claims 3,11, and 15, the combination of Noreen(bg), Noreen, Henson and Christensen teaches recording information for later purchase (col 6, lines

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64-67), but does not specifically mention that the information is transmitted at a specific location. Moskowitz teaches storing purchase data and then transmitting the data at a gasoline dispensing device at a specific location (FIG 7). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in the combination of Noreen(bg), Noreen, Henson and Christensen transmitting purchase information at a specific location, because this will allow the vehicle download information when the vehicle is outside a broadcast area therefore assure that a transaction might be completed without missing a sale.

Claim 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the background of US PG PUB 20020183059 para 0001-0009, which includes a summary or the inventions of previous Noreen patents 5,303,393, 5,455,823 and 5,689,245 herein referred to as Noreen (bg), in view of improvement over the background.as described in the remainder of the disclosure of PG PUB 20020183059, herein referred to as Noreen, in view of Christensen et al (US 6,957,041) in view of Henson (US 7035815).in view of Official Notice.

In regards to claim 14, , the combination of Noreen(bg), Noreen, Henson and Christensen teaches sending information to multiple servers but does not specifically mention wherein the step of sending the purchase data is sending the purchase data from the broadcast radio receiver to the server via a secure communication channel. The examiner takes Official Notice sending information over the internet via a secure

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means such as https was old and well known in the art at the time of the invention. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in , the combination of Noreen(bg), Noreen, Henson and Christensen wherein the step of sending the purchase data is sending the purchase data from the broadcast radio receiver to the server via a secure communication channel, because this will assure that sensitive information about the consumer is protected and the consumer will feel more at ease using the system.

In regards to claim 16, the examiner takes official notice that transferring collected data at a specific time such as in a batch method was old and well known in the art at the time of the invention. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in , the combination of Noreen(bg), Noreen, Henson and Christensen storing the purchase data at the broadcast radio receiver; and transmitting the stored data from the broadcast radio receiver to the server at a predetermined period of time, because the information can be sent in a batch format at a time when bandwidth usage is low thus reducing the chances that the data transfer will be timed out or otherwise delayed.

Response to Arguments

Applicant's arguments presented in the interview summary received 11/28/2011, were persuasive in regards to the USC 102 rejection and USC 112 rejection in the office

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action mailed 9/8/2011. However, after further consideration and search a new ground of rejection necessitated by amendment is provided above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeffrey Smith** can be reached on **571.272.6763**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

571-273-8300 [Official communications; including

After Final communications labeled

"Box AF"]

For general questions the receptionist can be reached at

571.272.3600

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/Mark Fadok/

Mark Fadok

Primary Examiner, Art Unit 3625